

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
E-SAT, Inc.,)	
EchoStar Communications Corporation and)	File No. SAT-T/C-20000502-00088
DBS Industries, Inc.)	Call Sign S2149
)	
Application for Consent to Transfer of Control)	
of Authorization to Launch and Operate a)	
Non-voice, Non-geostationary)	
Mobile Satellite System)	

ORDER AND AUTHORIZATION

Adopted: November 21, 2000

Released: November 22, 2000

By the Chief, International Bureau:

I. INTRODUCTION

1. By this Order, we grant the application of EchoStar Communications Corporation (EchoStar) and DBS Industries, Inc. (DBSI) to transfer control of E-SAT, Inc.'s non-voice, non-geostationary mobile satellite service license from EchoStar to DBSI. This restructuring will allow E-SAT to proceed expeditiously with the implementation of its system, enhancing competition and service offerings in the mobile communications market.

II. BACKGROUND

2. In 1998, the International Bureau granted E-SAT a license to construct and operate a non-voice, non-geostationary mobile satellite service (Little LEO) system.¹ E-Sat is authorized to operate a six-satellite Little LEO system in the 148-148.905 MHz uplink and the 137.0725-137.9275 MHz downlink frequency bands. EchoStar now owns 80 percent of E-SAT stock, and DBSI owns the remaining 20 percent of the shares. Following the proposed transfer, DBSI will own 80.1 percent of E-SAT's stock, and EchoStar the remaining 19.9 percent. On May 24, 2000, the International Bureau placed this transfer of control application on public notice. *Satellite Policy Branch Information*, Report No. SAT-00043. No comments or oppositions were filed.

III. DISCUSSION

3. Before we can approve this application, the Communications Act requires that we find the proposed transfer serves the public interest, convenience and necessity.² To do so, we weigh any potential

¹ *E-SAT, Inc., Order and Authorization*, 13 FCC Rcd. 10,859 (1998) (*E-SAT License*).

² 47 U.S.C. §310(d).

public interest harms against potential public interest benefits.³ We especially consider any potential competitive effects of the proposed change. Other public interest factors considered may include the speed with which new service is delivered to the public.⁴ Our weighing of these public interest factors is not limited to antitrust issues, but also encompasses the aims of the Communications Act, with its preference for competitive processes and outcomes.⁵ We therefore analyze this application by determining whether there are any relevant product markets that might be adversely affected by the proposed transaction, and then considering the competitive effects of the proposed transaction on those markets.

4. Generally, E-SAT and other Little LEO systems provide mobile satellite data services.⁶ In this case, however, we need not precisely delineate the product market involved, because DBSI has no significant business interests other than its current 20% interest in E-SAT.⁷ Therefore, DBSI's acquisition of control of E-SAT will not result in further market concentration or in diminished competition in any product market.

5. We accept the applicants' uncontradicted statement that the proposed transfer will facilitate the implementation of the E-SAT system, leading to further competition and service offerings in the Little LEO service.

IV. CONCLUSION

6. We find that granting this transfer application will serve the public interest, convenience, and necessity, by expediting the implementation of a Little LEO system, thus increasing competition in the mobile telecommunications market. We therefore grant the application of EchoStar Communications Corporation and DBS Industries, Inc. to transfer control of E-SAT, Inc.'s non-voice, non-geostationary mobile satellite service license to DBS Industries, Inc.⁸

³ See *Applications for Consent to the Transfer of Control of Licenses and Section 214 Authorizations from Tele-Communications, Inc. to AT&T Corp.*, 14 FCC Rcd 3160, 3168 (1999) (*TCI/AT&T Order*).

⁴ See, e.g., *WorldCom, Inc. and MCI Communications Corporation*, 13 FCC Rcd. 18025, 18030-31 ¶9 (1998).

⁵ *TCI/AT&T Order*, 14 FCC at 3168-69 ¶14.

⁶ For a summary of mobile service product offerings, see *Fifth Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, FCC 00-289 (released August 18, 2000).

⁷ DBSI reported to the Securities and Exchange Commission (SEC) that its business is in the development stage, and that it had no revenue in 1998. DBS Industries, Inc., SEC Form NT10-K (filed March 31, 1999). More recent, quarterly reports to the SEC indicate that DBS Industries remains a "telecommunications company dedicated to providing low-cost satellite-to-Internet data messaging to and from remote locations," services provided through its investment in E-SAT. DBS Industries, Inc., SEC Form 10-QSB for the quarterly period ended June 30, 2000 (filed August 14, 2000), pp. 9-12.

⁸ Our action in this Order and Authorization is without prejudice to any action that may be appropriate in connection with the letter inquiry, dated October 13, 2000, from the Satellite and Radiocommunication Division, to E-SAT. That letter seeks information related to bringing into use the E-SAT system. This action is also without prejudice to any action that may be appropriate in connection with the matters raised in a letter from

V. ORDERING CLAUSES

7. IT IS ORDERED that File No. SAT-T/C-20000502-00088, Application for Consent to Transfer of Control of Authorization to Launch and Operate a Non-voice, Non-geostationary Mobile Satellite System IS GRANTED.

8. This Order is issued under delegated authority, pursuant to Section 0.261 of the Commission's rules, 47 C.F.R. §0.261, and is effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson
Chief, International Bureau

Alan Rinker, ORBCOMM's Principal Engineer, Spectrum Management, to Fred W. Thompson, President of E-SAT, on October 16, 2000.